IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

WEDNESDAY, THE 21ST FEBRUARY 2007 / 2ND PHALGUNA 1928

OP.No. 7860 of 2000(I)

PETITIONER:

M/S. SURABHI MOVIES, CHALAKUDY, REPRESENTED BY ITS MANAGING PARTNER, SAMSON JOHN

BY ADV. SRI.J.JULIAN XAVIER

RESPONDENTS:
---

1. KERALA STATE ELECTRICITY BOARD, REPRESENTED BY ITS SECRETARY, VYDYUTHI BHAVAN, PATTOM, THIRUVANANTHAPURAM.

2. CHIEF ENGINEER TARIFF & COMMERCIAL, KERALA STATE ELECTRICITY BOARD, VYDYUTHI BHAVAN, PATTOM, THIRUVANANTHAPURAM.

3. SPECIAL OFFICER (REVENUE), KERALA STATE ELECTRICITY BOARD, VYDYUTHI BHAVAN, PATTOM, THIRUVANANTHAPURAM.

4. SUPERINTENDENT-IN-CHARGE, KERALA STATE ELECTRICITY BOARD, ELECTRICAL MAJOR SECTION, CHALAKUDY.

BY ADV. SRI.C.K.KARUNAKARAN, SC FOR KSEB

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 21/02/2007 THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP NO. 13093 OF 2000 IN OP 7860 OF 2000

DISMISSED

21.2.2007 SD/-C.N.RAMACHANDRAN NAIR, JUDGE.

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF THE BOARD ORDER NO. B.O. 291 OF 1999 (PLG. COM 3568/98) DATED 2.2.1999

EXT.P2 TRUE COPY OF THE REPRESENTATION DATED 4.6.1999 FILED BY THE PETITIONER BEFORE THE 2ND AND 3RD RESPONDENTS.

EXT.P3 SERIES. TRUE COPY OF THE BILLS ISSUED TO THE PETITIONER FROM 8/99 TO 1/2000

EXT.P4 TRUE COPY OF THE DEMAND DATED 28.2.2000 ISSUED BY THE 4TH RESPONDENT.

EXT.P5 TRUE COPY OF THE BOARD ORDER B.O.NO. 1701/99 (PLG. COM. 3776/99) DATED 31.7.99

FIRST RESPONDENT'S EXHIBITS:

EXT.R1(a) TRUE COPY OF LETTER DATED 23.2.99 NO. AE1/10/98-99/12325 ISSUED BY THE DY. CHIEF ENGINEER, ELECTRICAL CIRCLE, IRINJALAKUDA TO THE PETITIONER.

EXT.R1(b) TRUE COPY OF THE PENALTY BILL FOR RS. 1,45,733/ INVOICE NO. HC 81789 ISSUED BY KSEB

EXT.R1(c) TRUE COPY OF THE ORDER DATED 20.1.2000 B.O. NO. 179/2000 (PLG. COM. 3776/99) ISSUED BY THE FIRST RESPONDENT.

EXT.R1(d) TRUE COPY OF THE APPLICATION WITH COMPLETION REPORT.

TRUE COPY

P.S. TO JUDGE.

C.N.RAMACHANDRAN NAIR,J.

O.P. NO. 7860 OF 2000

Dated this the 21st day of February, 2007

JUDGMENT

In the impugned demand notice under challenge, it is seen that additional 25% is levied for non-conversion to HT tariff. Even though standing counsel for KSEB submitted that the demand is not penalty and the Board Order No. 2172/2001 (Plg.com.3776/99/TRAC) dated 30.10.2001 relied on by the petitioner is not applicable, I feel the matter has to be reconsidered by the concerned authority who issued the bill because bill itself was issued prior to the above referred Board order. In the circumstance, O.P. is disposed of with direction to the second respondent to reconsider maintainability of Ext.P4 demand based on Board order above referred and pass orders after hearing the petitioner. Order should be passed within one month from the date of production of a copy of this judgment by the petitioner. Interim stay granted by this Court will continue for another two months from now.

(C.N.RAMACHANDRAN NAIR)
Judge